

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES,

Plaintiff,

v.

No. 23-20191

DEMETRIUS HALEY,

Defendant.

UNOPPOSED MOTION FOR USE OF A JUROR QUESTIONNAIRE

Comes now the defendant, Demetrius Haley, by and through his counsel of record, Michael J. Stengel, Esq., and, without opposition, moves this court to use a juror questionnaire in anticipation of *voir dire*. In support thereof, Mr. Haley would show:

1. Counsel for the parties have discussed the matter and agree that the *voir dire* process will be simplified and streamlined if the court has each prospective fill out a questionnaire.

2. Both parties have used a juror questionnaire in criminal civil rights prosecutions and found such use beneficial to the *voir dire* process. A questionnaire is appropriate due to both the nature of the police misconduct allegations, about which prospective jurors must be questioned, and the extensive publicity

surrounding every step of the proceedings. Color-of-law cases implicate individuals' deeply held beliefs about law enforcement, the criminal justice system, and civil rights. Proper *voir dire* includes inquiry "regarding the attitudes of the prospective jurors on the issues of police credibility and charges of police misconduct". King v. Jones, 824 F.2d 324, 326 (4th Cir. 1987) Federal courts, including in the Sixth Circuit, have repeatedly approved of the use of written jury questionnaires in advance of trial in color-of-law cases, including color-of-law cases involving law enforcement and correctional officers. See, e.g., United States v. Kuretzka, Case No. 1:22-cr-52, (N.D. W. Va.); United States v. Burks, No. 19-cr-00344-MHT-JTA (M.D. Ala.); United States v. Palkowitsch, No. 19-cr-00013 (D. Minn.); United States v. Bigda, No. 3:18-cr-30051-MGM (D. Mass.); United States v. Dodge, No. 17-cr-323 (W.D. La.); United States v. Davis, et al., No. 16-cr-124 (M.D. La.); United States v. Corder, No. 3:15-cr-141 (W.D. Ky.); United States v. McIntosh, No. 8:12-cr-039 (D. Md.); United States v. McCrae, et al., No. 11-cr-30345 (E.D. La.); United States v. Moore, et al., No. 2:10-cr-213 (E.D. La.); United States v. Warren, No. 10-CR-154 (E.D. La.), United States v. Sease, No. 06-20304 (W.D. Tenn.). The extensive pretrial publicity likewise militates towards the use of a juror questionnaire. Skilling v. United States, 561 U.S. 358, 388-89 & n.22 (2010) (approving of jury selection process involving use of

questionnaire and noting "greater-than-normal need, due to pretrial publicity, to ensure against jury bias"); United States v. Beasley, 2014 WL 1870792, at *1 (E.D. Mich. May 8, 2014) (reasoning that "the Court's use of a juror questionnaire, individual *voir dire*, and a careful jury selection process will fully expose any prejudice from pretrial publicity").

3. The undersigned has spoken with the jury administrator about the mechanics for administering such questionnaire. In view of the trial date an order to administer the questionnaire to the May pool in April, 2024 will be required.

4. The parties are working on a proposed questionnaire to submit jointly for the court's consideration. Once counsel have agreed upon a joint proposed questionnaire, it will be submitted to the court for approval and administration. Counsel would suggest that the proposed questionnaire be finalized and submitted closer to trial, enabling it to address the current status of the case and surrounding publicity.

5. Consistent with L.Crim.R. 12.1(a), the undersigned discussed this request with the United States and learned that it joins in the motion for the use of a juror questionnaire.

Respectfully submitted,

S/Michael J. Stengel

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Certificate of Service

I hereby certify that I have served a copy of the foregoing Motion to Extend Motion Deadline by electronic means, via the Court's electronic filing system, on AUSA's David Pritchard, Libby Rogers, Kathryn Gilbert, and Forrest Christian this 6th day of November, 2023.

S/Michael J. Stengel